

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

* * * * *

JAMES SCHUTTE, *

as guardian and conservator of *

CAROLYN SCHUTTE, *

an incapacitated and disabled person, *

Petitioner, *

v. *

SECRETARY OF HEALTH *

AND HUMAN SERVICES, *

Respondent. *

* * * * *

No. 14-239V

Special Master Christian J. Moran

Filed: July 31, 2014

Stipulation; tetanus, diphtheria,
acellular pertussis (“Tdap”)
vaccine; on-Table encephalopathy.

LeLand F. Dempsey, Dempsey & Kingsland, P.C., Kansas City, MO, for
Petitioner;

Lisa A. Watts, United States Dep’t of Justice, Washington, DC, for Respondent.

UNPUBLISHED RULING FINDING ENTITLEMENT¹

On March 28, 2014, James Schutte, filed a petition under the National Childhood Vaccine Injury Act, 42 U.S.C. §§ 300aa-10 through 34 (2006), on behalf of his spouse, Carolyn Schutte, alleging that Carolyn suffered the Table injury of encephalopathy resulting from her receipt of the tetanus, diphtheria, acellular pertussis (“Tdap”) vaccine on June 22, 2011.

In her Rule 4 (c) report, respondent stated that Mr. Schutte’s claim is compensable under the Act. Respondent stated that the Division of Vaccine Injury Compensation, Department of Health and Human Services, has reviewed the facts

¹ The E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002), requires that the Court post this decision on its website. Pursuant to Vaccine Rule 18(b), the parties have 14 days to file a motion proposing redaction of medical information or other information described in 42 U.S.C. § 300aa-12(d)(4). Any redactions ordered by the special master will appear in the document posted on the website.

of this case and have concluded that the petitioner is entitled to a vaccine award and “has satisfied all legal prerequisites for compensation under the Act.” Resp’t’s Rep’t, filed July 23, 2014, at 5.

Special masters may determine whether a petitioner is entitled to compensation based upon the record. A hearing is not required. 42 U.S.C. § 300aa-13; Vaccine Rule 8(d). Based upon a review of the record as a whole, the undersigned finds that petitioner has established that he is entitled to compensation for Carolyn’s injuries.

Accordingly, Mr. Schutte is entitled to compensation. A status conference is set for **Monday, August 25, 2014 at 11:00 A.M. Eastern Time** to discuss the process for quantifying the amount of damages to which he is entitled.

Any questions shall be directed to my law clerk, Mary Holmes at (202) 357-6353.

IT IS SO ORDERED.

s/Christian J. Moran
Christian J. Moran
Special Master